HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO: 4580 of 1998

Dated: 22-06-2007

Between:

Y.Laxminarayana

..... PETITIONER

AND

The Superintending Engineer,
Operation Circle,
A.P. State Electricity Board,
Khammam and 2 others.

.....RESPONDENTS

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 4580 of 1998

O R D E R:

This writ petition is filed for a writ of Mandamus to declare the action of the respondents in not promoting the writ petitioner to the post of UDC in accordance with the integrated seniority list of UDCs/Revenue Cashiers with effect from 1992 as illegal and arbitrary and for consequential direction to promote the petitioner with effect from the year 1992 when the persons below him in the seniority list were promoted with all consequential benefits.

The petitioner was originally appointed as Bill Collector in the erstwhile Andhra Pradesh State Electricity Board (for short 'the Board') on 30-11-1981. The post of Bill Collector was re-designated as Revenue Cashier with effect from 01-05-1982. Consequent on the integration of the post of Revenue Cashiers and Lower Division Clerks into one cadre as LDCs, an integrated seniority list was drawn up among LDCs and Revenue Cashiers in the Operation Circle, Khammam on 07-01-1992. The said seniority list, after calling for objections, was confirmed on 08-02-1994. In both the seniority lists the petitioner figured at Serial No.46.

The grievance of the petitioner is that the first respondent vide his proceedings dated 15-02-1992 promoted the persons shown in the final seniority list at Serial Nos. 57 to 60, overlooking the petitioner for promotion. The petitioner kept on making representations to redress the

injustice caused to him. The third respondent in his proceedings dated 05-10-1992 directed all the Superintending Engineers and Zonal Chief Electrical Engineers to follow the integrated seniority list strictly and also observed that LDCs appointed subsequent to the integration of Revenue Cashiers were promoted as UDCs overlooking the seniors who had previously worked as Revenue Cashiers and were converted as LDCS though they are fully qualified to hold the post of UDC.

No counter affidavit has been filed, though as many as more than 9 years elapsed.

Learned counsel appearing for the respondents is unable to assist this Court.

Though time for counter affidavit was granted on 06-06-2007 and the matter underwent adjournments on 13-06-2007, 20-06-2007, 21-06-2007 and 22-06-2007, the respondents have not filed any counter affidavit.

Since the writ petition is of the year 1998, I felt it appropriate to dispose of the writ petition on the basis of the material available on record.

From the averments contained in the affidavit and the material filed by the petitioner, it is clear that consequent on the integration of the Revenue Cashiers and LDCs, a common seniority list was prepared in which, the petitioner was shown at Serial No.46. The final seniority list shows that Sri S.Narasimha Rao-LDC, Sri M.Someswara Rao,-LDC, Sri Syed Mustaq Ahmed-LDC and SK.Asgar Ali-LDC were promoted along with some other persons by the first respondent vide his proceedings dated 15-02-1992.

Learned counsel for the petitioner submitted that since the post of UDC is a non-selection post, where seniority is the main criterion, there is absolutely no reason for the first respondent to overlook the petitioner and

promote his juniors as UDCs.

In the absence of denial of any of the pleadings of the petitioner and contentions advanced by the learned counsel for the petitioner,

I have no option but to accept the contention of the learned counsel for the petitioner that the first respondent arbitrarily overlooked the petitioner for promotion while the persons at Serial Nos.57 to 60 who were juniors to the petitioner were promoted.

Therefore, the action of respondents in denying promotion to the petitioner, who is senior to the four persons aforementioned, is wholly illegal.

As regards the relief to be granted to the petitioner, at the hearing, the Court pointed out to the learned counsel for the petitioner that the four persons who were promoted are not made parties to this writ petition and, therefore, their seniority cannot be affected.

Learned counsel for the petitioner after seeking instructions from his client submitted that his client is willing to forego the seniority and he would be satisfied if he is given notional promotion from 15-02-1992 on which date the aforementioned four persons were promoted.

I find the submission of the learned counsel for the petitioner is fair and reasonable.

In the absence of any perceptible reason in not promoting the petitioner while promoting his juniors, the petitioner's claim for notional seniority with effect from the date of promotion of his juniors is wholly justified.

The respondents are directed to promote the petitioner notionally with effect from 15-02-1992, the date on which the persons at serial Nos. 57 to 60 of the integrated seniority list dated 08-02-1994 were promoted. This retrospective promotion shall be counted for the purpose of the

retirement benefits of the petitioner. Learned counsel for the petitioner submitted that he was promoted as UDC on
08-07-1999. It is needless to observe that his *inter se* seniority in the cadre of UDC is required to be considered without reference to the relief granted to the petitioner in this writ petition.

In the result, the writ petition is partly allowed in terms of the aforementioned observations. No costs.

(C.V.NAGARJUNA REDDY,J)

Date: 22-06-2007
KLP